

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
PUBLIC MEETING AGENDA

2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
&
100 North Barranca Street, Suite 410
West Covina, CA 91791

May 10, 2006
10:00 a.m.

ROLL CALL:

Candice A. Traeger, Chairwoman
Marcy V. Saunders, Board Member
Robert Pacheco, Board Member

MINUTES OF APRIL 12, 2006

MINUTES OF APRIL 26, 2006

ADMINISTRATIVE MATTERS

(Information regarding the general administration of cases pending before the Appeals Board.)

1. CALENDARING/CASELOAD

NEW BUSINESS

(The Appeals Board hears and discusses new reports presented by staff.)

OLD BUSINESS

(The Appeals Board hears and/or discusses matters on a follow-up basis.)

1. 2006 LEGISLATION
(Review and discuss legislation introduced that impacts the Appeals Board.)
2. 2005/06 BUDGET
(Review and discuss budget issues for this fiscal year.)
3. 2006/07 BUDGET
(Review and discuss budget issues for this fiscal year.)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 10, 2006
Page 2

CHAIRWOMAN'S REPORT

(Hear report from the Chair on issues affecting the Appeals Board.)

BOARD MEMBERS' REPORTS

(Hear reports from Board Members on issues affecting the Appeals Board.)

EXECUTIVE OFFICER'S REPORT

(Report regarding administrative matters and news from the Department and Appeals Board.)

STAFF REPORTS

(Reports from the Presiding ALJs and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)

Any matter not completed at this meeting may be continued to subsequent meetings.

PUBLIC COMMENT

(Public comment will be entertained during the discussion of each agenda item of the Open Meeting.)

APPEALS

(Report of statistics regarding appeals docketed by the Appeals Board for the current month, previous months, and previous four years)

| | |
|---|-------|
| Intents to Appeal in April 2006 | _____ |
| Total Intents to Appeal in 2006 | _____ |
| Appeals Docketed in April 2006 | _____ |
| Total Appeals Docketed in 2006 | _____ |
| Appeals Packets Completed in April 2006 | _____ |
| Total Appeals Packets Completed in 2006 | _____ |

| | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 |
|----------|------|------|------|------|------|------|
| January | 387 | 586 | 482 | 357 | 422 | 405 |
| February | 302 | 420 | 405 | 421 | 435 | 320 |
| March | 421 | 320 | 470 | 513 | 400 | 506 |
| April | 372 | 559 | 526 | 416 | 406 | |
| May | 612 | 589 | 359 | 325 | 187 | |
| June | 421 | 384 | 446 | 486 | 517 | |

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 10, 2006
Page 3

| | | | | | | |
|--------------|-------------|-------------|-------------|-------------|-------------|--|
| July | 410 | 511 | 367 | 320 | 372 | |
| August | 549 | 426 | 345 | 386 | 345 | |
| September | 350 | 374 | 448 | 269 | 380 | |
| October | 482 | 438 | 435 | 425 | 346 | |
| November | 507 | 368 | 331 | 332 | 326 | |
| December | 447 | 389 | 621 | 509 | 442 | |
| TOTAL | 5255 | 5367 | 5235 | 4762 | 4651 | |

Recess to Closed Session to discuss matters pursuant to Government Code § 11126 (a), (c) (3), and (e) and Labor Code sections 6609 and 6620.

The next Public Meeting/Closed Session is scheduled
Wednesday, May 24, 2006
Cal/ OSHA Appeals Board
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
&
100 North Barranca Street, Suite 410
West Covina, CA 91791

NOTICE TO PARTIES: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator at the local district Office or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

For Further Information
Contact
Janet M. Eagan
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
(916) 274-5751

oshappeals@dir.ca.gov

<http://www.dir.ca.gov/oshappeals/>

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 10, 2006
Page 4

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, May 10, 2006
10:00 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: April 28, 2006

RE: Closed Session of the Board on May 10, 2006

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. AC FRAMERS INC., 03-R2D3-3475
2. GRANITE ROCK COMPANY, 03-R5D1-4700
3. HUSSMAN CORPORATION, 03-R3D1-2939

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 10, 2006
Page 5

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. ABCO PAINTING, INC., 04-R4D5-3191 THROUGH 3194
2. ACME RIGGING & SUPPLY COMPANY, 05-R5D1-3666
3. AHERN RENTALS, 05-R2D2-2910
4. ALCANTAR CONCRETE SERVICES, 05-R3D3-032 THROUGH 034
5. AMERICAN RACING EQUIPMENT, 05-R4D2-3714 THROUGH 3717
6. AMERICAN XTAL TECHNOLOGY, INC. (AXT), 03-R1D4-2899 THROUGH 2902
7. AMERICA'S LABOR SUPPLY, 03-R3D3-4909
8. STEVE, EDWARD & LEO ARNAUDO dba ARNAUDO BROTHERS, 05-R2D4-3665
9. ATKINSON CONTRACTORS, INC., 05-R5D1-2358
10. BELK FARMS, 05-R3D3-527
11. BETTERAVIA FARMS, 04-R4D3-2942
12. CBC FRAMING, INC., 03-R2D1-5024
13. C & S WHOLESALE GROCERS dba SACRAMENTO LOGISTICS, 05-R2D1-2638 THROUGH 2640
14. CSP-CORCORAN, 05-R2D5-3599
15. CARLTON FORGE WORKS, 05-R4D4-3883
16. CHINA TIMES PRINTING, 05-R4D2-820 THROUGH 825
17. CHUY'S COLLISION CENTER, 05-R3D2-517 THROUGH 519
18. CITY OF WEST COVINA, 05-R4D4-1108 THROUGH 1110
19. CLASS A POWDERCOAT, INC., 05-R2D1-2740

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 10, 2006
Page 6

20. CLOSET WORLD, INC., 05-R4D4-241
21. CORPORATE HELICOPTERS, 05-R6D2-3705
22. CORRWOOD CONTAINERS, 05-R2D5-3866
23. DH TILE COMPANY/DH TILE AND FABRICATION, 05-R1D4-3091 AND 3092
24. DEPARTMENT OF CALIFORNIA HIGHWAY PATROL, 05-R2D5-1695
25. DON ROSE OIL COMPANY, INC., 05-R2D5-3600
26. FRITO LAY, INC., 05-R2D4-3125
27. GLEN RAGSDALE U/A, INC., 05-R5D1-2019
28. GLEN RAGSDALE U/A, INC., 05-R5D1-2020
29. HANSEN BROTHERS ENTERPRISES, 05-R5D1-2018
30. HEINZEN MANUFACTURING, 05-R1D2-2608 AND 2609
31. HELICOPTER ADVENTURES INC., 06-R6D1-671 THROUGH 674
32. HI-TECH IRONWORKS, 04-R4D2-3369 AND 3370
33. INITIATIVE FOODS, INC., 03-R2D7-2928 THROUGH 2936
34. INSCO PAINTING, 05-R3D1-513
35. IRWIN INDUSTRIES, 05-R4D1-039 AND 040
36. JKB HOMES CORPORATION, JKB HOMES, 05-R2D4-2804 THROUGH 2806
37. JOHN P. INGRAM, JR. & ASSOCIATES, INC., 04-R4D1-4738 THROUGH 4740
38. SEAN KELLY dba SK EXCAVATING, 05-R2D1-1582 AND 1583
39. KEMIRON PACIFIC INC., 05-R3D3-2406 AND 2407
40. KERN OIL & REFINING COMPANY, 05-R2D7-2307 THROUGH 2317
41. MADRID LASER SCREEN & BOOM PUMPING, 03-R4D4-4437
42. MILAN CORPORATION dba MARCO ROOFING COMPANY, 05-R1D4-2073 AND 2074

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 10, 2006
Page 7

- 43. MORNING GLORY GOLD MINES, 05-R5D1-751
- 44. PEDRETTI RANCHES, INC., 05-R2D4-3121 THROUGH 3124
- 45. JEFF F. PICKARD dba PICKARD AND SONS CONSTRUCTION, INC., 05-R2D1-2745 AND 2746
- 46. POLY PAK AMERICA, INC., 04-R4D2-4089 THROUGH 4093
- 47. PREFERRED PERSONNEL, 04-R4D2-4296
- 48. SACRAMENTO BAG MANUFACTURING CO., 05-R2D1-775
- 49. SAN FRANCISCO OPERA ASSOCIATION, 03-R1D1-5172
- 50. SEAWORLD, 04-R3D2-2560
- 51. SHELTONS POULTRY INC., 05-R6D2-1397 THROUGH 1401
- 52. SHRED WORKS, INC., 05-R1D4-2624
- 53. SONOMA PACIFIC COMPANY, 05-R3D3-724
- 54. SPRING LAKE VILLAGE, 05-R1D5-4358
- 55. SURFACES USA, 04-R4D2-4243
- 56. THUNDERBIRD RV PARK DELEHUNT PROPERTIES, 05-R2D3-1769
- 57. TRI-CED COMMUNITY RECYCLING; TRI-CITY ECONOMIC DEVELOPMENT CORP., 03-R1D4-4299
- 58. VITAFREEZE FROZEN CONFECTIONS, INC., 03-R2D1-4642 AND 4643
- 59. WESTERN FILTER CORPORATION, 03-R4D3-5088

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 10, 2006
Page 8

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. CITY OF LOS ANGELES FIRE DEPARTMENT, 03-R2D5-3960

DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

1. NONE

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

ACE LATH & PLASTERING, 01-R6D1-4798 through 4806
B & T INDUSTRIES, 03-R6D1-847 THROUGH 852
BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
BILL CALLAWAY & GREG LAY dba WILLIAMS REDI MIX, 03-R2D1-2400
BLUE DIAMOND MATERIALS, 02-R5D2-1268
CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
COX COMMUNICATIONS, 03-R3D2-1942
DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
ETTER & SON CONSTRUCTION, INC., 03-R1D5-3130 & 3131
HARRIS CONSTRUCTION COMPANY, INC., 03-R2D5-3914
HEARN CONSTRUCTION, INC., 02-R6D1-3533 through 3536
HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
ILH CONSTRUCTION, 02-R1D1-4171 & 4172
IMPERIAL HIGHWAY CHEVRON, 03-R4D2-2778 through 2780
J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
JAMES HIGBY ENGINEERING, 02-R4D3-4562 through 4567
JERLANE, INC., dba COMMERCIAL BOX AND PALLET, 01-R3D2-4344
K. A. BINE CONSTRUCTION, 03-R1D5-2031
KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 through 1209 & 02-1273
KNOTT'S BERRY FARM, 01-R3D1-4331 & 4332
LONG BEACH CITY COLLEGE, 03-R3D5-2747
LOWPENSKY MOULDING, 03-R1D1-3405
MCI WORLDCOM INC., 00-R1D1-440 through 442
MEDALLION INDUSTRIES, INC., 02-R6D1-2825 through 2830
McDONALDS #10660, 03-R1D3-4116 & 4117

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 10, 2006
Page 9

NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 through 1401
NORTH FORK SPRINGS CONSTRUCTION, 02-R4D1-199 through 202
PMR RACE CARS, 03-R3D3-1824 & 1825
POUK & STEINLE, INC., 03-R4D2-1495 & 1496
RII PLASTERING INC., 02-R3D1-2679
RAMONA EQUIPMENT RENTAL, INC., 02-R3D2-2944 through 2948
SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 through 1656
SHEFFIELD FURNITURE CORPORATION, 00-R6D2-1322 et. al. & 01-1397
SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
STILES PAINT MANUFACTURING, 02-R1D4-1630
STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
TRIO METAL, 03-R4D4-0316 & 0317
UNITED AIRLINES, 00-R1D5-2844
WAREHOUSE DEMO SERVICES, 03-R1D4-3427
WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018

PENDING LITIGATION

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
2. DSS ENG. CONTRACTORS, 02CS00928 (99-1023)
3. TUTOR-SALIBA-PERINI (03CS803), 03CS00202 (97-3209/12)
4. SUNRISE WINDOW CLEANERS, INC., 03CS00300 (00-3220/21)
5. TEICHERT AGGREGATES, 03CS00659 (01-1193)
6. VANCE BROWN BUILDERS, 03CS00660 (00-3318/19)
7. BENICIA FOUNDRY/IRON WORKS, 03CS00802 (00-2976/2987)
8. HARBOR SAND & GRAVEL, INC., 03CS00974 (01-1016)
9. LUIS E AVILA (E & L AVILA LABOR), ECU01582 (00-4067)
10. ARB, INC., 03CS01454 (01-2119)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 10, 2006
Page 10

11. MOUNTAIN CASCADE, 03CS01655 (01-3561)
12. RUDOLPH & SLETTEN, 04CS00540 (01-478)
13. PACIFIC RESOURCE RECOVERY, 04CS00695 (00-1108)
14. MATAROZZI-PELSINGER BUILDERS, 04CS01204 (01-1400)
15. BLF FRAMING, INC., 04CS01618 (02-1837/38)
16. C DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)

APPELLATE COURT:

1. BRAGG CRANE, (LA) B182094 (BS091587) 01-2428
2. TEICHERT CONSTRUCTION, C050709(02CS00517) 98-2512
3. C. OVERAA & CO., CO51245 (04CS00570) 01-3560
4. THE HERRICK CORP., CO51506 (01CS00438) 97-1373

OTHER LEGAL MATTERS

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

ARB, INC., 02-R5D3-1574
Motion for Sanctions and Request for Hearing

PERSONNEL *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.